

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

JAMES A. SMITH, JR.,

Plaintiff,

v.

WILLIAM POLLARD, et al.

Defendants.

---

ORDER

Case No. 16-cv-10-wmc

On January 13, 2016, this court entered an order directing plaintiff James A. Smith, Jr. to submit an initial partial filing payment of \$0.87 of the filing fee, which he has not yet paid. However, upon closer review of plaintiff's filing history, it appears that plaintiff has three strikes in the Eastern District of Wisconsin for filing lawsuits that were dismissed for failure to state a claim or dismissed as frivolous.

These three lawsuits are:

- *Smith v. Frank*, 03-cv-414 (E.D. Wis.) (dismissed for failure to state a claim);
- *Smith v. Frank*, 04-cv-489 (E.D. Wis.) (dismissed as frivolous);
- *Smith v. Frank*, 05-cv-476 (E.D. Wis.) (dismissed as frivolous).

Under the Prison Litigation Reform Act of 1996 (PLRA), a prisoner may not bring a civil action or appeal a civil judgment *in forma pauperis*, if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Because plaintiff has previously filed three actions that were dismissed as frivolous or for failure to state a claim,

his complaint in this case must be taken under advisement for screening pursuant 28 U.S.C. § 1915(g) to determine if plaintiff is under imminent danger of serious physical injury.

ORDER

IT IS ORDERED that plaintiff James Smith's complaint is taken under advisement for screening under 28 U.S.C. § 1915(g). No further action will be taken in this case until the court has screened the complaint as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915(g). Once the screening process is complete, a separate order will issue.

Entered this 15<sup>th</sup> day of March, 2016.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge